

Form 4564 Rev. Apr 2003	Department of the Treasury Internal Revenue Service INFORMATION DOCUMENT REQUEST	Request Number
TO: (Name of Taxpayer and Co. Div. or Branch) (Include Entity Number)		Subject
Please return with requested documents to agent named below.		LISTED TRANSACTIONS
		Sain No.
		Submitted to:
		Dates of Previous Requests

### Description of Documents Requested

The Internal Revenue Service has identified certain transactions as "listed transactions" for purposes of §1.6011-4T(b)(2) of the temporary Income Tax Regulations. The IRS considers transactions that are the same as or substantially similar to listed transactions to be tax avoidance transactions. Attached below is a summary of the listed transactions as of the date of this IDR.

The purpose of this IDR is to determine whether **Taxpayer** has directly or indirectly participated in transactions that are the same as or substantially similar to any listed transaction. Please list each transaction that is the same as or substantially similar to a listed transaction in which **Taxpayer** directly or indirectly participated and that affects **Taxpayer's** Federal income tax liability for any year under examination. The rules of §1.6011-4T apply to determine whether a taxpayer has directly or indirectly participated in a transaction and whether a transaction is the same as or substantially similar to a listed transaction.

A taxpayer will have indirectly participated in a listed transaction if the taxpayer's Federal income tax liability is affected (or in the case of a partnership or S corporation, if a partner's or shareholder's Federal income tax liability is reasonably expected to be affected) by the transaction even if that taxpayer is not a direct party to the transaction. Moreover, a taxpayer will have indirectly participated in a listed transaction if the taxpayer knows or has reason to know that the tax benefits claimed from the taxpayer's transaction are derived from a listed transaction. See §1.6011-4T(a)(1) and (2).

The term substantially similar includes any transaction that is expected to obtain the same or similar types of claimed tax benefits and that is either factually similar or based on the same or similar tax strategy. Receipt of an opinion concluding that the tax benefits from **Taxpayer's** transaction are allowable is not relevant to the determination of whether **Taxpayer's** transaction is the same as or substantially similar to a listed transaction. The term substantially similar must be broadly construed in favor of disclosing under this IDR. See §1.6011-4T(b)(1)(i)

For each transaction identified, please provide the following:

1. A description of the transaction, including all material facts.
2. A description of **Taxpayer's** tax treatment of the transaction, including tax benefits claimed on the return. In describing the tax treatment, include all tax rules or mechanics that affect, give rise to, or result in the claimed tax benefit.
3. Information identifying the amounts involved and the General Ledger accounts affected by any part of the transaction. Please trace all identified items and amounts as line items on the tax returns.

4. All contracts and other transactional documents, including agreements, instruments, and schedules. If such information is too voluminous, then, in the alternative, provide an index that lists and describes all such contracts and transactional documents.
5. Complete copies of all documents and other materials, including legal opinions and memoranda, provided by any party that promoted, solicited, or recommended **Taxpayer's** participation in the transaction.
6. All internal documents used by **Taxpayer** in its decision making process, including, if applicable, information presented to **Taxpayer's** Board of Directors, Audit and Finance Committee, and any other committee.
7. Complete and unredacted minutes of the Board of Directors, Audit and Finance Committees, and any other committee(s) that related, directly or indirectly, to the transaction.
8. All legal, accounting, financial, and economic opinions and memoranda secured by or on behalf of **Taxpayer** in connection with the transaction.
9. A list of all participants and their roles in the transaction.
10. The names and addresses of all parties who promoted, solicited, or recommended **Taxpayer's** participation in the transaction and to whom **Taxpayer** paid fees or other compensation in connection with **Taxpayer's** decision to participate in the transaction.
11. The name(s) and job titles of officers and other employees of **Taxpayer** familiar with the transaction and who are available to meet with the audit team within two weeks of the date of this IDR.
12. Privilege. For each document withheld because of a claim of privilege, please provide the following:
  - a. The name and title of the author;
  - b. The date of the document;
  - c. The names, titles, and addresses of all recipients of the documents;
  - d. The subject matter of the document;
  - e. The privilege claimed;
  - f. The portions of the document for which there is no claim of privilege; and
  - g. For any opinion or memoranda described in item 8 above, the conclusions reached in the opinion or memorandum.

#### Definitions and other instructions

- a. **Taxpayer** means all (1) entities that form a part of the consolidated group, and (2) entities over which **Taxpayer** exercises legal or effective control.
- b. Provide full and complete documents. Also, provide non-identical copies of all items requested in this IDR. Please note and explain any deviation or difference between the original and the copy.
- c. This request applies to the years **years**.

Summary of listed transactions -- See Notice 2001-51, 2001-34, I.R.B. 190 (August 20, 2001) (identifying all listed transactions through Notice 2001-45). The transactions listed in Notice 2002-51 and later transactions are summarized below.

(1) Rev. Rul. 90-105, 1990-2 C.B. 69 (transactions in which taxpayers claim deductions for contributions to a qualified cash or deferred arrangement or matching contributions to a defined contribution plan where the contributions are attributable to compensation earned by plan participants after the end of the taxable year).

(2) Notice 95-34, 1995-1 C.B. 309 (certain trust arrangements purported to qualify as multiple employer welfare benefit funds exempt from the limits of §§ 419 and 419A of the Internal Revenue Code).

- (3) Notice 95-53, 1995-2 C.B. 334 (certain multiple-party transactions intended to allow one party to realize rental or other income from property or service contracts and to allow another party to report deductions related to that income (often referred to as "lease strips"))).
- (4) Part II of Notice 98-5, 1998-1 C.B. 334 (transactions in which the reasonably expected economic profit is insubstantial in comparison to the value of the expected foreign tax credits).
- (5) Transactions substantially similar to those at issue in *ASA Investorings Partnership v. Commissioner*, 201 F.3d 505 (D.C. Cir. 2000), and *ACM Partnership v. Commissioner*, 157 F.3d 231 (3d Cir. 1998) (transactions involving contingent installment sales of securities by partnerships in order to accelerate and allocate income to a tax-indifferent partner, such as a tax-exempt entity or foreign person, and to allocate later losses to another partner).
- (6) Treas. Reg. § 1.643(a)-8 (transactions involving distributions described in §1.643(a)-8 from charitable remainder trusts).
- (7) Rev. Rul. 99-14, 1999-1 C.B. 835 (modified and superceded by Rev. Rul. 2002-69) -transactions in which a taxpayer purports to lease property and then purports to immediately sublease it back to the lessor (that is, lease-in/lease-out or LILO transactions).
- (8) Notice 99-59, 1999-2 C.B. 761 (transactions involving the distribution of encumbered property in which taxpayers claim tax losses for capital outlays that they have in fact recovered).
- (9) Treas. Reg. §1.7701(l)-3 (transactions involving fast-pay arrangements as defined in §1.7701(l)-3(b)).
- (10) Rev. Rul. 2000-12, 2000-11 I.R.B. 744 (certain transactions involving the acquisition of two debt instruments the values of which are expected to change significantly at about the same time in opposite directions).
- (11) Notice 2000-44, 2000-36 I.R.B. 255 (transactions generating losses resulting from artificially inflating the basis of partnership interests).
- (12) Notice 2000-60, 2000-49 I.R.B. 568 (transactions involving the purchase of a parent corporation's stock by a subsidiary, a subsequent transfer of the purchased parent stock from the subsidiary to the parent's employees, and the eventual liquidation or sale of the subsidiary).
- (13) Notice 2000-61, 2000-49 I.R.B. 569 (transactions purporting to apply §935 to Guamanian trusts).
- (14) Notice 2001-16, 2001-9 I.R.B. 730 (transactions involving the use of an intermediary to sell the assets of a corporation).
- (15) Notice 2001-17, 2001-9 I.R.B. 730 (transactions involving a loss on the sale of stock acquired in a purported §351 transfer of a high basis asset to a corporation and the corporation's assumption of a liability that the transferor has not yet taken into account for federal income tax purposes).
- (16) Notice 2001-45, 2001-33 I.R.B. 129 (certain redemptions of stock in transactions not subject to U.S. tax in which the basis of the redeemed stock is purported to shift to an U.S. taxpayer).
- (17) Notice 2002-21, 2002-14 I.R.B. 730 (April 8, 2002) (transactions involving the use of a loan assumption agreement to claim an inflated basis in assets acquired from another party).
- (18) Notice 2002-35, 2002-14 I.R.B. 992 (May 28, 2002) (transactions involving a notional principal contract to claim current deductions for periodic payments while disregarding the accrual of a right to receive offsetting payments in the future).
- (19) Rev. Rul. 2002-46, 2002-29 I.R.B. 1 (June 28, 2002) (identifying as substantially similar to Rev. Rul. 90-

